

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DAVID M. APPLEBY, SR.,

Plaintiff,

v.

Case No. 08-C-793

WISCONSIN RESOURCE CENTER,

Defendant.

ORDER

Plaintiff Appleby, who is proceeding pro se, lodged a complaint alleging a conspiracy of defamation occurring at the Wisconsin Resource Center, where he is incarcerated. Plaintiff has also filed a motion to proceed *in forma pauperis*. 28 U.S.C. § 1915. Under § 1915(e)(2), I maintain a duty to determine at the outset whether the complaint is frivolous or fails to state a claim on which relief may be granted.

Plaintiff's complaint does not state a federal claim. He alleges that various guards and staff members have obtained and manipulated computer images of him engaging in sexual activity, and that these images are part of a plan to set him up for some sort of sexual assault charge. He states that his reputation is being ruined at the WRC because many people there now believe he was a child rapist when, in fact, he was not. Although these unusual facts may state the basis for a defamation claim based on state law, the complaint does not invoke any kind of federal protections that may be enforced in federal court. None of the Plaintiff's complaints, in other words, involves federal law or the Constitution. Accordingly, the complaint will be dismissed for lack of jurisdiction.

This Court sent Plaintiff a directive to submit a trust account statement. It appears however that because he is incarcerated at the WRC, rather than a prison, the trust account requirement of the Prisoner Litigation Reform Act does not apply. Accordingly, that directive is vacated, and the Plaintiff need not submit any further financial information to this court.

Plaintiff's motion to proceed *in forma pauperis* is **GRANTED** (meaning that the filing fee is waived), but the complaint is **DISMISSED** for lack of jurisdiction.

SO ORDERED this 23rd day of September, 2008.

s/ William C. Griesbach _____

William C. Griesbach
United States District Judge